IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3049 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

KUTTY JHABRABHAI MULUBHAI

Appearance:

1. Special Civil Application No. 3049 of 1989
MR PRANAV G DESAI for Petitioner No. 1
MR PM THAKKAR for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 28/11/2001

ORAL JUDGEMENT

In this petition under Article 227 of the Constitution, the Gujarat State Road Transport Corporation has challenged the judgment and award dated 17.12.1988 passed by the Labour Court, Rajkot in Reference (LCR) No. 693 of 1986.

2. The respondent's name was removed from the waiting list for appointment to the post of conductor. The respondeat was thereafter given appointment as a badli worker. It was found that on 16.5.1984 and on 24.5.1984 the respondent had not issued tickets to two passengers. Hence, the Corporation removed the respondent's name from the waiting list for the post of conductor, by relying on the provisions of Regulation 61 which empowered the Corporation at the relevant time to resort to termination simpliciter.

3. The Labour Court examined the respondent's challenge and held that although there was some negligence on the part of the respondent, the Corporation had sought for the respondent's explanation as if the respondent had committed an act of dishonesty. No departmental inquiry was held. The Labour Court held that there was no charge that the respondent had collected money and not issued tickets. Therefore, at the most there was negligence on his part which did not warrant a drastic action of removing the respondent's name from the waiting list for the post of conductor. Hence, the Corporation was directed by the impugned order dated 17.12.1988 to restore the respondent's name to the waiting list for the post of conductor.

4. The learned counsel for the petitioner has submitted that the Labour Court ought not to have interfered with the order removing the respondent's name from the waiting list when Regulation 61 conferred power on the Corporation to delete the name of the employee from the waiting list if a temporary employee is found guilty of negligence in his duty. Since the provisions of Section 11A of the Industrial Disputes Act confer power on the Labour Court to examine the legality or otherwise of the order of the dismissal or discharge, the Labour Court had jurisdiction to go into the question of proportionality of the action taken by the petitioner Corporation.

5. In the facts and circumstances of the case, the impugned award of the Labour Court cannot be said to be suffering from any jurisdictional error nor can it be said to be perverse. The petition, therefore, deserves to be dismissed and is accordingly dismissed.

Rule is discharged with no order as to costs.

(M.S. Shah, J.)
sundar/-